

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN FRANCISCO BAY REGION**

**COMPLAINT NO. R2-2005-0060  
MANDATORY MINIMUM PENALTY  
IN THE MATTER OF  
GENERAL CHEMICAL CORPORATION  
PITTSBURG, CONTRA COSTA COUNTY**

This complaint assesses Mandatory Minimum Penalties (MMPs) pursuant to Water Code sections 13385(h) and (i). It is issued to General Chemical Corporation (hereafter Discharger) based on a finding of violations of Waste Discharge Requirements Order No. R2-2002-0071 (NPDES No. CA0004979).

The Executive Officer finds the following:

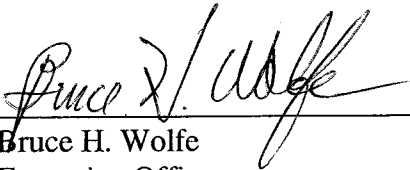
1. On June 19, 2002, the Water Board adopted Order No. R2-2002-0071 for the Discharger, to regulate discharges of waste from its facility.
2. Water Code Section 13385(h)(1) requires the Water Board to assess an MMP of three thousand dollars (\$3,000) for each serious violation.
3. Water Code Section 13385(h)(2) defines "serious violation" as any waste discharge of a Group I pollutant that exceeds the effluent limitation contained in the applicable waste discharge requirements by 40 percent or more, or any waste discharge of a Group II pollutant that exceeds the effluent limitation by 20 percent or more.
4. Water Code Section 13385(i)(1) requires the Water Board to assess an MMP of three thousand dollars (\$3,000) for each violation, not counting the first three violations, if the discharger does any of the following four or more times in any six consecutive months:
  - a. Violates a waste discharge requirement effluent limitation.
  - b. Fails to file a report pursuant to Section 13260.
  - c. Files an incomplete report pursuant to Section 13260.
  - d. Violates a toxicity effluent limitation contained in the applicable waste discharge requirements where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.
5. Water Code Section 13385(l) authorizes the Water Board to allow the discharger to undertake a Supplemental Environmental Project (SEP) for up to the full amount of the penalty for liabilities less than or equal to \$15,000. For liabilities in excess of \$15,000, SEPs are authorized up to \$15,000 plus half the penalty amount that exceeds \$15,000.

6. Order No. R2-2002-0071 includes the following effluent limitations:  
*Effluent Limitation B.5.e. Mercury Interim Daily Maximum Limit 1 µg/l*  
*Effluent Limitation B.6. Mercury Interim Mass Emission Limit (12-Month Moving Average of Total Mass Load) 0.021 kg/month*
7. From June 1, 2004 to September 30, 2005, the Discharger exceeded its NPDES permit limits eleven times; no penalty has previously been assigned to these violations. These eleven violations are five mercury interim daily maximum limit violations and six mercury interim mass emission limit violations. A summary of the violations appears in Table 1.
8. Mercury is a Group II pollutant. Three of the five mercury interim daily maximum effluent limit violations are serious violations because the violations exceed the effluent limitation by 20 percent or more. These three serious violations are each subject to a \$3,000 MMP under Section 13385(h) for a total of \$9,000. Two of the five mercury effluent limit violations are chronic violations because the violations exceed the effluent limitation by less than 20 percent. Because there were more than three effluent limit violations in the preceding 180 days, these two chronic effluent limit violations are each subject to a \$3,000 MMP under Section 13385(i) for a total of \$6,000.
9. All six mercury interim mass emission limit violations are serious violations because the violations exceed the effluent limitation by 20 percent or more. These serious violations are each subject to a \$3,000 MMP under Section 13385(h) for a total of \$18,000.
10. Water Code Section 13385(j) provides for some exceptions related to the assessment of an MMP for effluent limit violations. None of the exceptions apply to the violations cited in this Complaint.
11. The total MMP amount is \$33,000.
12. In lieu of the first \$15,000 of the penalty the discharger may be permitted to conduct a supplemental environmental project (SEP) approved by the Executive Officer. Of the penalty amount in excess of \$15,000 the discharger may be permitted to contribute 50% towards an SEP. Thus, \$24,000 of the \$33,000 penalty in this complaint is eligible for SEP substitution.

**GENERAL CHEMICAL CORPORATION IS HEREBY GIVEN NOTICE THAT:**

1. The Executive Officer of the Water Board proposes that the Discharger be assessed an MMP in the amount of \$33,000.
2. The Water Board shall hold a hearing on this Complaint on January 11, 2006, unless the Discharger waives the right to a hearing by signing the last page of this Complaint and checking the appropriate box, and there is no significant public comment. By doing so, the Discharger agrees to:
  - a. Pay the full penalty of \$33,000 within 30 days after the signed waiver becomes effective as indicated in item 4 below, or

- b. Pay a penalty of a minimum of \$9,000 within 30 days after the signed waiver becomes effective as indicated in item 4 below, and complete an SEP in an amount equivalent to a maximum of \$24,000. The sum of the SEP amount and the amount of the fine to be paid to the State Board shall equal the full penalty amount of \$33,000.
3. If the Discharger chooses to propose an SEP, it must submit a proposal by December 2, 2005, for the Executive Officer's approval. Any SEP proposal shall conform to the requirements specified in Section IX of the Water Quality Enforcement Policy, which was adopted by the State Water Resources Control Board on February 19, 2002. If the proposed SEP is not acceptable to the Executive Officer, the Discharger has 30 days from receipt of notice of an unacceptable SEP to either submit a new or revised proposal, or make a payment for the suspended amount. All payment, including any money not expended for the SEP must be payable to the State Water Pollution Cleanup and Abatement Account. Regular reports on the SEP implementation shall be provided to the Executive Officer according to a schedule to be determined. The completion report for the SEP shall be submitted to the Executive Officer within 60 days of project completion.
4. The signed waiver becomes effective upon closure of the public comment period for this Complaint, provided no significant public comment is received by Board staff by the due date indicated in the appropriate public notice.
5. If a hearing is held, the Water Board will consider whether to affirm, reject, or modify the proposed administrative civil liability, or whether to refer the matter to the Attorney General for recovery of the civil liability.

  
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Bruce H. Wolfe  
Executive Officer

NOV 1 3 2005  
\_\_\_\_\_  
Date

Table 1 – Violations Summary

Table 1. Violations Summary

| Item No.                              | Date of Violation | Parameters in Violation  | Permit Limit | Reported Value | Penalty (Chronic)    | Penalty (Serious) |
|---------------------------------------|-------------------|--|--------------|----------------|----------------------|-------------------|
| 1                                     | 30-Jun-04         | Mercury Interim Effluent 12-month Moving Average Total Mass Load kg/mo | 0.021        | 0.3861         |                      | \$3,000           |
| 2                                     | 31-Jul-04         | Mercury Interim Effluent 12-month Moving Average Total Mass Load kg/mo | 0.021        | 0.0462         |                      | \$3,000           |
| 3                                     | 31-Aug-04         | Mercury Interim Effluent 12-month Moving Average Total Mass Load kg/mo | 0.021        | 0.037          |                      | \$3,000           |
| 4                                     | 30-Sep-04         | Mercury Interim Effluent 12-month Moving Average Total Mass Load kg/mo | 0.021        | 0.0328         |                      | \$3,000           |
| 5                                     | 31-Oct-04         | Mercury Interim Effluent 12-month Moving Average Total Mass Load kg/mo | 0.021        | 0.0263         |                      | \$3,000           |
| 6                                     | 18-Nov-04         | Mercury Interim Effluent Daily Maximum ug/l                            | 1            | 1.99           |                      | \$3,000           |
| 7                                     | 30-Nov-04         | Mercury Interim Effluent 12-month Moving Average Total Mass Load kg/mo | 0.021        | 0.0254         |                      | \$3,000           |
| 8                                     | 21-Jan-05         | Mercury Interim Effluent Daily Maximum ug/l                            | 1            | 2              |                      | \$3,000           |
| 9                                     | 31-Jan-05         | Mercury Interim Effluent Daily Maximum ug/l                            | 1            | 1.1            | \$3,000              |                   |
| 10                                    | 3-May-05          | Mercury Interim Effluent Daily Maximum ug/l                            | 1            | 1.13           | \$3,000              |                   |
| 11                                    | 2-Jun-05          | Mercury Interim Effluent Daily Maximum ug/l                            | 1            | 1.41           |                      | \$3,000           |
| Number of fineable chronic violations |                   |  |              | 2              | \$6,000              |                   |
| Number of serious violations          |                   |  |              | 9              |                      | \$27,000          |
|                                       |                   |  |              |                | <b>Total Penalty</b> | <b>\$33,000</b>   |

## WAIVER

(The signed waiver becomes effective upon closure of the public comment period for this Complaint, provided no significant public comment is received by Board staff by the due date indicated in the appropriate public notice.)

[ ] Waiver of the right to a hearing and agreement to make payment in full

By checking the box, I agree to waive my right to a hearing before the Water Board with regard to the violations alleged in Complaint No. R2-2005-0060 and to remit the full penalty payment to the State Water Pollution Cleanup and Abatement Account, c/o Regional Water Quality Control Board at 1515 Clay Street, Oakland, CA 94612, within 30 days after the signed waiver becomes effective as indicated above. I understand that I am giving up my right to be heard, and to argue against the allegations made by the Executive Officer in this Complaint, and against the imposition of, or the amount of, the civil liability proposed.

[ ] Waiver of the right to a hearing and agreement to propose and complete an SEP

By checking the box, I agree to waive my right to a hearing before the Water Board with regard to the violations alleged in Complaint No. R2-2005-0060, and to complete a supplemental environmental project (SEP) in lieu of the suspended liability not to exceed \$24,000. I also agree to remit the balance of the fine to the State Water Pollution Cleanup and Abatement Account within thirty (30) days after the signed waiver becomes effective. The sum of the SEP amount and the amount of the fine to be paid shall equal the full penalty amount of \$33,000. I understand that the SEP proposal shall conform to the requirements specified in Section IX of the Water Quality Enforcement Policy, which was adopted by the State Water Resources Control Board on February 19, 2002, and be subject to approval by the Executive Officer. If the SEP proposal, or its revised version, is not acceptable to the Executive Officer, I agree to pay the suspended penalty within 30 days of a letter from the Executive Officer denying the approval of the proposed SEP. I also understand that I am giving up my right to argue against the allegations made by the Executive Officer in the Complaint, and against the imposition of, or the amount of, the mandatory minimum penalty proposed. I further agree to complete the approved SEP within a time schedule set by the Executive Officer.

\_\_\_\_\_  
Name (print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title/Organization